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## **Ex Parte**

September 19, 2017

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: MB Docket No. 12-217**

Dear Ms. Dortch:

On September 18, 2017, I spoke by telephone with Alison Nemeth, Media Advisor to Chairman Pai, regarding the draft *Report and Order*<sup>1</sup> in the above-captioned proceeding concerning cable television digital technical standards.

NCTA reiterated its view that mandatory “proof of performance” testing for digital signal quality – whether required by the FCC or local franchising authorities – would be unnecessary, costly and disruptive.<sup>2</sup> Section 626(c)(1)(B), referenced in the draft *Report and Order*,<sup>3</sup> does not provide general authority for testing to determine compliance with the FCC’s technical standards. This narrow provision allows franchising authorities to consider whether “the quality of the operator’s service, including signal quality... has been reasonable in light of community needs” in the specific context of certain franchise renewal proceedings.<sup>4</sup> NCTA proposed that if the *Report and Order* were to address the issue of franchise renewal-related testing, it should clarify that any such testing should be limited to SCTE 40 parameters and, to avoid unnecessary

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<sup>1</sup> *In the Matter of Cable Television Technical and Operational Standards*, Draft Report & Order, MB Docket No. 12-217 (rel. Sept. 7, 2017).

<sup>2</sup> See Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-217 (filed June 27, 2017); see also Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-217 (filed May 25, 2017).

<sup>3</sup> Draft Report and Order at n. 58.

<sup>4</sup> 47 U.S.C. § 546 (c)(1)(B) (describing factors that may be considered in an administrative hearing after a preliminary assessment that a franchise should not be renewed).

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costs on cable operators and their customers, should accommodate technological advances in testing, such as remote network monitoring.

Respectfully submitted,

**/s/ Diane B. Burstein**

Diane B. Burstein

cc: Alison Nemeth